

1 Adopt 2 Cal. Code Regs. Section 18413 to read:

2 **§ 18413. Reporting Independent Expenditures by Eligible 501(c)(4) Organizations.**

3 (a) Application. This regulation provides an event-based reporting alternative for
4 an eligible 501(c)(4) organization that makes occasional independent expenditures from
5 its general treasury to support or oppose a ballot measure in California. This reporting
6 option does not apply for contributions or independent expenditures made by a 501(c)(4)
7 organization to support or oppose a candidate in a California election, or to
8 contributions made to support or oppose a ballot measure in California.

9 (b) Definitions. For purposes of this regulation, “Eligible 501(c)(4)
10 organization” means an organization to which all of the following apply:

11 (1) The organization has received 501(c)(4) tax-exempt status from the Internal
12 Revenue Service and is operating under 501(c)(4) of the Internal Revenue Code; and if
13 incorporated in the State of California, has received a tax-exempt determination from the
14 California Franchise Tax Board under California Revenue and Taxation Code Section
15 23701f, or if incorporated in a state other than California, has received the required tax-
16 exempt determination under the laws of the state of incorporation.

17 (2) The organization is multipurpose and occasionally makes independent
18 expenditures using donated funds from its general treasury to support or oppose ballot
19 measures in California. “Occasionally makes independent expenditures” means either of
20 the following:

21 (A) Expenditures from the organization’s general treasury totaling, in the
22 aggregate in a calendar year, less than \$500,000 ~~on behalf of~~ to support or oppose four
23 or fewer state ballot measures.

1 (B) Expenditures from the organization's general treasury totaling, in the
2 aggregate in a calendar year, less than \$50,000 ~~on behalf of~~ to support or oppose one or
3 more local ballot measures.

4 (c) Reporting Options. Under Regulation 18215(b)(1), an ~~An~~ eligible 501(c)(4)
5 organization that ~~triggers the "one bite of the apple" test in Regulation 18215(b)(1),~~
6 ~~and subsequently~~ makes an independent expenditure from its general treasury is
7 required to identify the donors of funds utilized to make independent expenditures on
8 ballot measures in California, if the organization has previously made independent
9 expenditures or contributions from its general treasury totaling at least one
10 thousand dollars (\$1,000) during the same calendar year, or during any of the four
11 calendar years immediately preceding that year. An eligible 501(c)(4) organization
12 shall either (1) report ~~these the~~ independent ~~expenditures~~ expenditure as a recipient
13 committee or (2) elect to report the independent ~~expenditures~~ expenditure under the
14 event-based reporting rules set forth in subdivision (d) without designating a treasurer,
15 filing a statement of organization, periodic recipient committee reports on Form 460, or a
16 statement of termination.

17 (d) Event-Based Independent Expenditure Reporting.

18 (1) When to File. An eligible 501(c)(4) organization that elects event-based
19 reporting shall report an independent expenditure of \$1,000 or more made from its
20 general treasury to support or oppose the qualification or passage of a ballot measure on
21 an Independent Expenditure Report (Form 496) filed within 10 business days after
22 making the independent expenditure. However, if the eligible 501(c)(4) organization
23 makes the independent expenditure during the 90 days preceding a state election or 16

1 days preceding a local election in which the measure appears on the ballot, it shall file the
2 Independent Expenditure Report within 24 hours after making the independent
3 expenditure.

4 (2) Report Contents.

5 (A) The Form 496 report shall list the eligible 501(c)(4) organization's full name
6 and street address, and in addition, shall include the designation "Eligible 501(c)(4) IE
7 Report" in the "Name of Filer" field, indicating the organization's election to use event-
8 based independent expenditure reporting. The report shall include the name of a current
9 officer, director, or trustee of the 501(c)(4) organization listed on the organization's
10 Internal Revenue Service Form 990, who shall be responsible for the accuracy and
11 completeness of the report.

12 (B) The Form 496 report shall contain the information about the independent
13 expenditure required by the form concerning the date, amount, and description of the
14 goods or services for which the expenditure was made. ~~The report~~ **The report and** shall identify
15 the measure the independent expenditure is supporting or opposing as specified in
16 Section 84204.5(a)(2).

17 (C) The Form 496 report shall identify the donors whose payments of \$100 or
18 more to the general treasury were used to pay for the independent expenditure. If only a
19 part of a donor's payment to the organization was used to make independent
20 expenditures, the payment may be apportioned for reporting purposes. The organization
21 may use any reasonable method that accurately reflects the sources of funds for the
22 expenditure, such as apportioning the donor's payments, or using the last in, first out,
23 accounting method. Once the organization selects an accounting method, it must

1 continue to use the same method. Donor payments to the organization that may be
2 subject to itemized disclosure are those made after ~~the date of the organization's "first~~
3 ~~bite of the apple" under Regulation 18215(b)(1);~~ the date of the organization's first
4 expenditure or contribution of \$1,000 or more pursuant to Regulation 18215(b)(1).
5 ~~however~~ However, if the donor knows his or her payment to the organization will be
6 used for ballot measure independent expenditures the payment shall be disclosed as
7 contributed by that donor.

8 (D) The organization shall maintain the records necessary to document the donor
9 contributions and the independent expenditures reported.

10 (3) Where to File. For an independent expenditure in connection with a state
11 measure, the organization shall file a Form 496 report electronically with the California
12 Secretary of State. For an independent expenditure in connection with a local measure,
13 the organization shall file a Form 496 report electronically with the California Secretary
14 of State, and shall also file a copy of the report with the clerk of the city or county in
15 which the measure is being voted on.

16 (e) A 501(c)(4) organization that is not an eligible 501(c)(4) organization but
17 otherwise qualifies as a recipient committee under Title 9 (commencing with Section
18 81000) of the Government Code shall report as a recipient committee.

19 NOTE: Authority cited: Section 83112, Government Code.

20 Reference: Sections 82013, Section 84204, Section 85500, Government Code.